

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
LINDA MCGARR,

Plaintiff,

-against-

CITY OF PEEKSKILL, WESTCHESTER COUNTY,
DAVID LEVINE, THOMAS MCINTYRE,
WALTER BROVARSKI, EUGENE TUMOLO,
JOHN AND JANE DOE SUPERVISORS,
DANIEL STEPHENS, GEORGE BOLEN,
LOUIS ROH, MILLARD HYLAND, and
ALAN TWEED,

Defendants.
-----X

**ANSWER TO
FIRST AMENDED COMPLAINT**

07 Civ. 9488 (KMK)

For the answer to the first amended complaint of the plaintiff in the above entitled case, defendant Daniel Stephens, by his attorneys, GELARDI & RANDAZZO LLP, says:

1. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "1" of plaintiff's complaint.

2. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "2" of plaintiff's complaint.

3. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "3" of plaintiff's complaint.

4. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "4" of plaintiff's complaint except admit that new DNA testing established that the semen found on A.C.'s body came from Cunningham, who subsequently confessed, pled guilty to, and was convicted of the crime.

5. Defendant denies the allegations contained in paragraph "5" of plaintiff's complaint.

6. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "6" of plaintiff's complaint.

7. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "7" of plaintiff's complaint.

8. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "8" of plaintiff's complaint.

9. Defendant denies the allegations contained in paragraph "9" of plaintiff's complaint.

JURISDICTION

10. The allegations contained in paragraph "10" of the complaint constitute conclusions of law to which defendant makes no answer except to demand strict proof thereof and respectfully refers any and all questions of law to this Honorable Court.

VENUE

11. The allegations contained in paragraph "11" of the complaint constitute conclusions of law to which defendant makes no answer except to demand strict proof thereof and respectfully refers any and all questions of law to this Honorable Court.

JURY DEMAND

12. No response required.

PARTIES

13. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "13" of plaintiff's complaint.

14. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "14" of plaintiff's complaint.

15. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "15" of plaintiff's complaint.

16. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "16" of plaintiff's complaint.

17. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "17" of plaintiff's complaint.

18. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "18" of plaintiff's complaint.

19. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "19" of plaintiff's complaint.

20. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "20" of plaintiff's complaint.

21. Defendant admits the allegations contained in paragraph "21" of plaintiff's complaint.

22. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "22" of plaintiff's complaint.

23. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "23" of plaintiff's complaint.

24. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "24" of plaintiff's complaint.

FACTS

The Crime and Initial Investigation

25. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "25" of plaintiff's complaint.

26. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "26" of plaintiff's complaint.

27. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "27" of plaintiff's complaint.

28. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "28" of plaintiff's complaint.

29. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "29" of plaintiff's complaint.

30. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "30" of plaintiff's complaint.

31. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "31" of plaintiff's complaint.

32. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "32" of plaintiff's complaint.

33. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "33" of plaintiff's complaint.

34. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "34" of plaintiff's complaint.

35. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "35" of plaintiff's complaint.

36. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "36" of plaintiff's complaint.

37. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "37" of plaintiff's complaint.

38. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "38" of plaintiff's complaint.

Peekskill Police Focus on Peekskill High School for Suspects

39. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "39" of plaintiff's complaint.

40. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "40" of plaintiff's complaint.

41. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "41" of plaintiff's complaint.

42. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "42" of plaintiff's complaint.

43. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "43" of plaintiff's complaint.

44. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "44" of plaintiff's complaint.

The PPD Defendants Conceal Material, Exculpatory and Impeachment Evidence

45. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "45" of plaintiff's complaint.

46. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "46" of plaintiff's complaint.

47. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "47" of plaintiff's complaint.

48. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "48" of plaintiff's complaint.

The Investigation Focuses on Jeffrey Deskovic

49. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "49" of plaintiff's complaint.

50. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "50" of plaintiff's complaint.

51. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "51" of plaintiff's complaint.

52. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "52" of plaintiff's complaint.

53. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "53" of plaintiff's complaint.

PPD Investigators Exploit Jeffrey's Emotional and Psychological Vulnerabilities

54. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "54" of plaintiff's complaint.

55. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "55" of plaintiff's complaint.

56. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "56" of plaintiff's complaint.

57. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "57" of plaintiff's complaint.

58. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "58" of plaintiff's complaint.

59. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "59" of plaintiff's complaint.

60. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "60" of plaintiff's complaint.

61. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "61" of plaintiff's complaint.

62. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "62" of plaintiff's complaint.

63. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "63" of plaintiff's complaint.

64. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "64" of plaintiff's complaint.

65. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "65" of plaintiff's complaint.

66. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "66" of plaintiff's complaint.

67. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "67" of plaintiff's complaint.

68. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "68" of plaintiff's complaint.

69. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "69" of plaintiff's complaint.

Jeffrey Obtains Legal Counsel- Which the Defendants Disregard

70. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "70" of plaintiff's complaint.

71. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "71" of plaintiff's complaint.

72. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "72" of plaintiff's complaint.

73. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "73" of plaintiff's complaint.

74. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "74" of plaintiff's complaint.

75. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "75" of plaintiff's complaint.

76. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "76" of plaintiff's complaint and refer all questions of law to this Honorable Court.

77. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "77" of plaintiff's complaint and refer all questions of law to this Honorable Court.

The PPD Defendants Conceal Their Fifth Amendment Violations

78. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "78" of plaintiff's complaint.

79. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "79" of plaintiff's complaint and refer all questions of law to this Honorable Court.

80. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "80" of plaintiff's complaint.

81. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "81" of plaintiff's complaint.

The Police Question Jeffrey and Fabricate Additional Evidence of Guilt

82. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "82" of plaintiff's complaint.

83. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "83" of plaintiff's complaint.

84. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "84" of plaintiff's complaint.

85. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "85" of plaintiff's complaint.

The Police Plan to Procure Jeffrey's Confession

86. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "86" of plaintiff's complaint.

87. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "87" of plaintiff's complaint.

88. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "88" of plaintiff's complaint except admit that defendant Stephens performed polygraph "testing" out of a private, non-law enforcement office in Brewster, New York.

89. Defendant denies the allegations contained in paragraph "89" of plaintiff's complaint.

90. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "90" of plaintiff's complaint.

The Coerced "Confession"

91. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "91" of plaintiff's complaint.

92. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "92" of plaintiff's complaint.

93. Defendant admits the allegations contained in paragraph "93" of plaintiff's complaint except deny the allegation that Stephens was not identified as a law enforcement officer.

94. Defendant admits the allegations contained in paragraph "94" of the plaintiff's complaint and defendants deny knowledge or information sufficient to form a belief as to whether plaintiff had eaten prior to arriving in Brewster.

95. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "95" of plaintiff's complaint.

96. Defendant denies the allegations contained in paragraph "96" of the plaintiff's complaint.

97. Defendant admits the allegations contained in paragraph "97" of the plaintiff's complaint.

98. Defendant admits the allegations contained in paragraph "98" of the plaintiff's complaint that Stephens began to question Jeffrey concerning the rape and murder of A.C., deny the allegations that Stephens provided and/or suggested details to plaintiff and defendants deny knowledge or information sufficient to form a belief as to the remaining allegations.

99. Defendant denies the allegations contained in paragraph "99" of the plaintiff's complaint.

100. Defendant denies the allegations contained in paragraph "100" of the plaintiff's complaint.

101. Defendant denies the allegations contained in paragraph "101" of the plaintiff's complaint except admit the allegations that Stephens left the room.

102. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "102" of plaintiff's complaint.

103. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "103" of plaintiff's complaint.

104. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "104" of plaintiff's complaint.

105. Defendant denies the allegations contained in paragraph "105" of plaintiff's complaint.

106. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "106" of plaintiff's complaint.

107. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "107" of plaintiff's complaint.

108. Defendant denies the allegations contained in paragraph "108" of the plaintiff's complaint.

109. Defendant denies the allegations contained in paragraph "109" of the plaintiff's complaint.

**Police Coerced, Fabricated, and Concealed Exculpatory Evidence Concerning Additional
Investigation of Jeffrey Deskovic**

110. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "110" of plaintiff's complaint.

111. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "111" of plaintiff's complaint.

112. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "112" of plaintiff's complaint.

**Jeffrey's Indictment Is Procured With Fabrications and Concealment of Material,
Exculpatory and Impeachment Evidence**

113. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "113" of plaintiff's complaint.

114. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "114" of plaintiff's complaint.

115. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "115" of plaintiff's complaint.

116. Defendant denies the allegations contained in paragraph "116" of the plaintiff's complaint.

DNA Evidence Exonerates Jeffrey- But the Prosecution Continues

117. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "117" of plaintiff's complaint.

118. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "118" of plaintiff's complaint.

119. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "119" of plaintiff's complaint.

120. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "120" of plaintiff's complaint.

121. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "121" of plaintiff's complaint.

122. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "122" of plaintiff's complaint.

123. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "123" of plaintiff's complaint.

124. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "124" of plaintiff's complaint.

125. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "125" of plaintiff's complaint.

126. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "126" of plaintiff's complaint.

Prosecutorial and Police Misconduct Deprive Jeffrey of a Fair Trial

127. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "127" of plaintiff's complaint.

128. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "128" of plaintiff's complaint.

129. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "129" of plaintiff's complaint.

130. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "130" of plaintiff's complaint.

131. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "131" of plaintiff's complaint.

132. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "132" of plaintiff's complaint.

133. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "133" of plaintiff's complaint.

134. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "134" of plaintiff's complaint.

Mr. Deskovic's Incarceration and Efforts to Prove His Innocence

135. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "135" of plaintiff's complaint except admit

the allegation that plaintiff was convicted and sentenced to fifteen years to life in prison.

136. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "136" of plaintiff's complaint.

137. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "137" of plaintiff's complaint.

138. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "138" of plaintiff's complaint.

The Real Killer Is Identified and Jeffrey is Exonerated

139. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "139" of plaintiff's complaint.

140. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "140" of plaintiff's complaint except admit to the allegation that Mr. Cunningham pleaded guilty.

141. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "141" of plaintiff's complaint.

142. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "142" of plaintiff's complaint except admit the allegation that plaintiff was released from prison.

143. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "143" of plaintiff's complaint.

Policies and Customs of the PPD, the Westchester County District Attorney's Office, and the Westchester County Medical Examiner's Office

144. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "144" of plaintiff's complaint.

145. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "145" of plaintiff's complaint.

146. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "146" of plaintiff's complaint.

147. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "147" of plaintiff's complaint.

148. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "148" of plaintiff's complaint.

149. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "149" of plaintiff's complaint.

150. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "150" of plaintiff's complaint.

151. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "151" of plaintiff's complaint.

152. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "152" of plaintiff's complaint.

153. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "153" of plaintiff's complaint.

154. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "154" of plaintiff's complaint.

155. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "155" of plaintiff's complaint.

156. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "156" of plaintiff's complaint.

157. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "157" of plaintiff's complaint.

DAMAGES

158. Defendant denies the allegations contained in paragraph "158" of the plaintiff's complaint.

159. Defendant denies the allegations contained in paragraph "159" of the plaintiff's complaint.

160. Defendant denies the allegations contained in paragraph "160" of the plaintiff's complaint.

161. Defendant denies the allegations contained in paragraph "161" of the plaintiff's complaint.

ANSWERING COUNT I

42 U.S.C. § 1983 First Amendment and Fourteenth Amendment Due Process Clause Right to Familial Association Against All Defendants

162. Defendant repeats, reiterates and realleges each and every answer in the foregoing paragraphs with the same force and effect as if set forth more fully at length herein.

163. The allegation contained in paragraph "163" of plaintiff's complaint constitute conclusions of law to which no response is required.

164. The allegation contained in paragraph "164" of plaintiff's complaint

constitute conclusions of law to which no response is required.

165. The allegation contained in paragraph "165" of plaintiff's complaint constitute conclusions of law to which no response is required.

166. Defendant denies the allegations contained in paragraph "166" of the plaintiff's complaint.

167. Defendant denies the allegations contained in paragraph "167" of the plaintiff's complaint.

168. Defendant denies the allegations contained in paragraph "168" of the plaintiff's complaint.

169. Defendant denies the allegations contained in paragraph "169" of the plaintiff's complaint.

170. Defendant denies the allegations contained in paragraph "170" of the plaintiff's complaint.

171. Defendant denies the allegations contained in paragraph "171" of the plaintiff's complaint.

172. Defendant denies the allegations contained in paragraph "172" of the plaintiff's complaint.

173. Defendant denies the allegations contained in paragraph "173" of the plaintiff's complaint.

174. Defendant denies the allegations contained in paragraph "174" of the plaintiff's complaint.

175. Defendant denies the allegations contained in paragraph "175" of the plaintiff's complaint.

176. Defendant denies the allegations contained in paragraph "176" of the plaintiff's complaint.

177. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "177" of plaintiff's complaint.

178. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "178" of plaintiff's complaint.

179. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "179" of plaintiff's complaint.

180. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "180" of plaintiff's complaint.

181. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "181" of plaintiff's complaint.

182. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "182" of plaintiff's complaint.

183. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "183" of plaintiff's complaint.

184. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "184" of plaintiff's complaint.

185. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "185" of plaintiff's complaint.

186. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "186" of plaintiff's complaint.

187. Defendant denies knowledge or information sufficient to form a belief as

to each and every allegation contained in paragraph "187" of plaintiff's complaint.

188. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "188" of plaintiff's complaint.

189. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "189" of plaintiff's complaint.

190. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "190" of plaintiff's complaint.

191. Defendant denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph "191" of plaintiff's complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

192. At all times relevant hereto, defendant Stephens acted in good faith and took appropriate action in the discharge of his official duties.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

193. Defendant Stephens to the extent he is sued in his individual capacity, is entitled to qualified immunity since at all times he acted in good faith in the discharge of his job duties and his conduct did not violate any clearly established constitutional or statutory rights which a reasonable person would have known.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

194. Defendant Stephens, at all relevant times acted in accordance with all laws, rules and regulations and pursuant to his statutory authority.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

195. Any conduct which is alleged by plaintiff is *de minimis* and unsubstantial and as such the allegations fail to establish a claim under U.S.C. Section 1983.

AS AND FOR AN FIFTH AFFIRMATIVE DEFENSE

196. The complaint on file herein fails to state a claim upon which relief can be granted.

AS FOR A SIXTH AFFIRMATIVE DEFENSE

197. Any harm which came to plaintiff was a direct and proximate result to plaintiff's own actions.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

198. That plaintiff's claim or damages, if any, are to be strictly governed by the Civil Rights Act of 1991 (42 USC Section 1981a).

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

199. Plaintiff's claims are barred by the applicable statute of limitations.

W H E R E F O R E, the defendants pray judgment that the complaint of the plaintiff be dismissed, together with the costs and disbursements of this action and attorney's fees awarded to the defendant.

Dated: Hawthorne, New York
July 18, 2008

Respectfully submitted,

GELARDI & RANDAZZO LLP

By: 

James A. Randazzo (0156)

Attorneys for Defendant- Daniel Stephens
151 Broadway
Hawthorne, New York 10532
(914) 495-3050

TO: EMERY CELLI BRINCKERHOFF & ABADY LLP
Eric Hecker, Esq.
Attorneys for Plaintiff- Linda McGarr
75 Rockefeller Plaza, 20th Floor

New York, New York 10019
(212) 763-5000

COCHRAN NEUFELD & SCHECK, LLP
Attorney for Plaintiff-Jeffrey Deskovic
99 Hudson Street
New York, New York 10013
(212) 965-9081

OXMAN TULIS KIRKPATRICK WHYATT & GEIGER LLP
Stuart Kahan, Esq.
Attorney for Defendants-Westchester County, Louis Roh and Millard Hyland
120 Bloomingdale Road
White Plains, New York 10605
(914) 422-3900

MIRANDA SOKOLOFF SAMBURSKY SLONE & VERVENIOTIS, LLP
Brian Sokoloff, Esq.
Attorney for Defendants-City of Peekskill, David Levine,
Thomas McIntyre and Walter Brovarski
240 Mineola Boulevard
The Esposito Building
Mineola, New York 11501
(516) 741-7676

WILLIAM FLORENCE, ESQ.
Attorney for Defendant-City of Peekskill
Department of Law
City Hall
840 Main Street
Peekskill, New York 10566

STILLMAN FRIEDMAN & SHECHTMAN, P.C.
James Mitchell, Esq.
Attorneys for Defendant-Eugene Tumolo
425 Park Avenue
New York, New York 10022
(212) 223-0200

Office of the Attorney General
John Knudsen, Esq.
Attorney for Defendant-Alan Tweed
120 Broadway

New York, New York 10271
(212) 416-8625

WELLINGHORST & FRONZUTO
Lori Ann Fee, Esq.
4 Franklin Avenue
Ridgewood, New Jersey 07450
(212) 251-0046

CERTIFICATE OF SERVICE

I, JAMES A. RANDAZZO, hereby certify that on July 21, 2008, I served the within ANSWER TO FIRST AMENDED COMPLAINT upon all parties, by Electronic Case Filing to the address as provided to defendant by notification from this Court:

TO: EMERY CELLI BRINCKERHOFF & ABADY LLP
Eric Hecker, Esq.
Attorneys for Plaintiff- Linda McGarr
75 Rockefeller Plaza, 20th Floor
New York, New York 10019
(212) 763-5000

COCHRAN NEUFELD & SCHECK, LLP
Attorney for Plaintiff-Jeffrey Deskovic
99 Hudson Street
New York, New York 10013
(212) 965-9081

OXMAN TULIS KIRKPATRICK WHYATT & GEIGER LLP
Stuart Kahan, Esq.
Attorney for Defendants-Westchester County, Louis Roh and Millard Hyland
120 Bloomingdale Road
White Plains, New York 10605
(914) 422-3900

MIRANDA SOKOLOFF SAMBURSKY SLONE & VERVENIOTIS, LLP
Brian Sokoloff, Esq.
Attorney for Defendants-City of Peekskill, David Levine,
Thomas McIntyre and Walter Brovanski
240 Mineola Boulevard
The Esposito Building
Mineola, New York 11501
(516) 741-7676

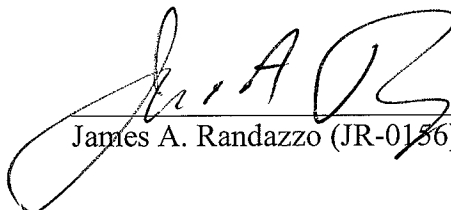
WILLIAM FLORENCE, ESQ.
Attorney for Defendant-City of Peekskill
Department of Law
City Hall
840 Main Street
Peekskill, New York 10566

STILLMAN FRIEDMAN & SHECHTMAN, P.C.
James Mitchell, Esq.
Attorneys for Defendant-Eugene Tumolo
425 Park Avenue

New York, New York 10022
(212) 223-0200

Office of the Attorney General
John Knudsen, Esq.
Attorney for Defendant-Alan Tweed
120 Broadway
New York, New York 10271
(212) 416-8625

WELLINGHORST & FRONZUTO
Lori Ann Fee, Esq.
4 Franklin Avenue
Ridgewood, New Jersey 07450
(212) 251-0046



James A. Randazzo (JR-0156)